

TENNESSEE BOARD OF PHARMACY
JANUARY 11-12, 2012
227 FRENCH LANDING, POPLAR ROOM
NASHVILLE, TN

BOARD MEMBERS PRESENT

Larry Hill, D.Ph., President
Brenda Warren, D.Ph., Vice President
Charles Stephens, D.Ph.
Joyce McDaniel, Consumer Member
Jason Kizer, D.Ph.
Nina Smothers, D.Ph.
Will J. Bunch, D. Ph.

STAFF PRESENT

Andrew Holt, Executive Director
Terry Grinder, Pharmacy Investigator
Anthony Czerniak, Assistant General
Counsel
Sheila Bush, Administrative Manager
Tommy Chrisp, Pharmacy Investigator
Scott Denaburg, Pharmacy Investigator
Richard Hadden, Pharmacy Investigator
Rebecca Moak, Pharmacy Investigator

The Tennessee Board of Pharmacy convened on Wednesday, January 11, 2012, in the Poplar Room, 227 French Landing, Nashville, TN. A quorum of the members being present, the meeting was called to order at 9:05 a.m., C.D.T., by Dr. Larry Hill.

Elections

Dr. Hill thanked the Board and board staff for their cooperation and help during his leadership as president of the Board. Dr. Smothers made the motion to nominate Dr. Brenda Warren as president of the board. Ms. McDaniel seconded the motion. The motion carried. Dr. Warren thanked Dr. Hill for his services. Dr. Kizer made the motion to nominate Dr. Stephens as vice-president of the board. Ms. McDaniel seconded the motion. The motion carried.

Minutes

The minutes from the November 8-9, 2011 board meeting were presented. After discussion, Dr. Smothers made the motion to approve the minutes as presented. Dr. Stephens seconded the motion. The motion carried.

Legal Report

1. Case No.: L11-PHR-RBS-201100149

Complainant alleged that patient requested that new prescription for 120 Hydrocodone tablets be partially filled (60 tablets) by pharmacy. When patient went to pick up partial

fill, patient was unhappy that he was charged for the full prescription. Respondent indicated that partial fill was by request of the patient not due to supply shortage. Respondent indicated that patient thought he would be charged for only half of the prescription at time of pick-up. Respondent indicated that this is store policy.

Prior discipline: none

Recommendation: Dismiss

Dr. Bunch made the motion to **accept counsel's recommendation**. Dr. Kizer seconded the motion. The motion carried.

2. Case No.: L11-PHR-RBS-201100056

Complainant alleged respondent pharmacist removed bottles of prescription drugs held in inventory at a pharmacy where he was PIC (pharmacy 1) without authority to do so, and placed them in inventory at a different pharmacy owned by Respondent (pharmacy 2). Complainant alleged shortage of over \$16,000 as a result of Respondent's actions. Result of investigation by the Board of Pharmacy yielded the following facts: Respondent was the owner of 2 pharmacies. Respondent and complainant entered into a sales agreement for pharmacy 1, whereby sale of existing inventory of prescription drugs within a certain expiration date would be excluded from the transaction. Sales agreement also included an employment provision whereby respondent would remain on as PIC after the sale of pharmacy 1. Review of the sales contract obtained during the investigation confirmed the above. Respondent indicated that he removed the prescription drugs at pharmacy 1 that fell within the "expiration date" provision of the sales contract and did place them in inventory at pharmacy 2. Respondent also admits that he did transfer other prescription drugs from pharmacy 1 to pharmacy 2, but asserts that such transfers were common place while he was owner of both pharmacies. Respondent asserts that he was told by complainant to continue to run Pharmacy 1 "as if it was his own"—complainant denies ever instructing Respondent to do so. Respondent did maintain a log of what was transferred between stores, and complainant states that they were made whole in regards to the alleged shortages.

*Prior discipline: 2001—refused to transfer RX's—dismissed
2002—denied copies of old RX's--dismissed*

Recommendation: Dismiss

Dr. Stephens made the motion to **accept counsel's recommendation**. Dr. Smothers seconded the motion. The motion carried.

3. Case No.: L10-PHR-RBS-201000186

Complaint originated from call to BOP from law enforcement regarding a large black bag of prescription medication found on the side of a road. The bag contained two empty prescription bottles, several bottles of expired medication in manufactures bottles and repackaged bottles bearing the name of Respondent Pharmacy. Medication bottles in the bag contained the following expired medications blood pressure medications, albuterol inhalation solution, phentrimine tablets, clonazepam tablets, klonopin tablets. Expiration dates ranged from September 1997 through September 2004. Investigation by Bop found that bag of medication found belonged to the Respondent Pharmacy, and that the bag had been stolen from the home of the PIC of Respondent Pharmacy. PIC indicated that the bag of expired medications had been taken home for destruction. PIC indicated that at the time of the break-in at his home two televisions were stolen in addition to the bag of expired medication. Respondent admitted that he had allowed patients to bring back their expired medication for destruction and was not aware that such practice was not allowed. BOP conducted an audit at Respondent Pharmacy and found the following overage/shortages:

Alprazolam .25mg	overage of 56
Alprazolam .5mg	shortage of 335
Alprazolam 1mg	shortage of 2223
Alprazolam 2 mg	shortage of 315
Hydrocod 5/500 mg	shortage of 602
Hydrocod 7.5/500 mg	shortage of 1831
Oxycod 500/325 mg	shortage of 4
Tussionex Liq	overage of 661

PIC states that he has no idea how the shortages occurred and cannot accuse anyone of taking them as he did not see anyone taking them.

*Prior discipline: 1994-unlawful to sell, barter
1995- possession without valid prescription*

Recommendation: Discuss

After discussion, Dr. Smothers made the motion to issue a **Letter of Instruction** to the pharmacist in charge concerning the expired drugs. Dr. Stephens seconded the motion. Dr. Smothers amended the motion to recommend fifteen continuing education hours of law and the handling of controlled substances in addition to the required thirty (30) hours for renewal. The motion carried. Ms. McDaniel made the motion to amend to add that five (5) of the fifteen required continuing pharmaceutical hours must be live hours and be completed within six (6) months. Dr. Stephens seconded the amendment. The motion carried to approve the amendment. The original motion carried. Dr. Stephens made the motion to recommend suspension of the license of the pharmacist in charge for six (6) months. Ms. McDaniel seconded the motion. The motion carried. Dr. Stephens made the

motion that when the pharmacist returns to work at any pharmacy, he must maintain a perpetual inventory for two (2) years and that the current shortage be reported to the Drug Enforcement Agency (DEA). Ms. McDaniel seconded the motion. The motion carried.

4. Case No.: L11-PHR-RBS-201100079

Complainant alleged that respondent pharmacist refused to fill prescription for hydrocodone received by patient from a free dental clinic. Complainant alleged that when patient questioned respondent as to why he refused to fill the prescription, *respondent stated that in his opinion patient was already getting enough pain medication and that all patient and patient's spouse did was lay around the house and take pain pills*. Respondent asserts that patient was under the care of a pain clinic and under contract to receive all prescriptions for controlled substances from the pain clinic. Respondent states that both the dental clinic and pain clinic were called. The dental clinic verified that prescription was valid; however the pain clinic never called the Respondent back. As a result, the Respondent refused to fill. Statements from additional witnesses support Respondents actions.

Prior discipline: none

Recommendation: Dismiss

Dr. Kizer made the motion to **accept counsel's recommendation**. Ms. McDaniel made the motion. The motion carried.

5. Case No.: L11-PHR-RBS-20100093

Complaint generated from period inspection of Respondent's compounding pharmacy. Periodic inspection found 20 partially filled compounding drugs which had expiration dates going back to 2009 and a hood which had not been recertified since 2007. At time of initial inspection Respondent stated that routine checks are conducted relating to expiration dates, however the shelf where the expired medication were found was inadvertently missed. A subsequent inspection was conducted which found that all expired drugs had been removed and that the non sterile hood had been recertified.

Prior discipline: none

Recommendation: Letter of Warning

Dr. Stephens made the motion to issue a **Letter of Instruction** to the pharmacy for the expired drugs. Dr. Smothers seconded the motion. The motion carried.

6. Case No.: L11-PHR-201100203

Respondent technician admitted by affidavit to forging a prescription for Hydrocodone by using a scanned image from a patient's previous prescription. Respondent admitted that when she moved into her house she found an empty prescription bottle for Hydrocodone which had been discarded by a prior tenant. Respondent then refilled the prescription by forgery, charged the refill to the patient's insurance, paid the patient's co-pay then sold the prescription on the street.

Prior discipline: none

Recommendation: Revoke

Dr. Hill made the motion to **recommend a formal hearing for revocation**. Dr. Kizer seconded the motion. The motion carried.

7. Case No.: L11-PHR-201100193

Respondent technician admitted by affidavit to the removal of one bottle (500 Tablets) of Hydrocodone 10/500mg from the pharmacy without authorization or valid prescription. Respondent also admitted to the removal from the pharmacy of two prescriptions which had been properly filled. The two prescriptions were for Hydrocodone 10/500mg (120 tablets each) which Respondent states that once they were filled she deleted them from the computer system and removed them from the pharmacy with the intent to sell.

Prior discipline: none

Recommendation: Revoke

Dr. Smothers made the motion to **authorize a formal hearing for revocation**. Ms. McDaniel seconded the motion. The motion carried.

8. Case No.: L11-PHR-201100174

Respondent technician admitted by affidavit to the removal of the following controlled substances from the pharmacy without authorization or valid prescription over the course of approximately one year:

334 tablets of alprazolam .5 mg
697 tablets of alprazolam 1mg
442 tablets of alprazolam 2mg
424 tablets of hydrocodone 7.5/500mg
729 tablets of hydrocodone 10/500mg
610 tablets of hydrocodone 7.5/325mg
1,118 tablets of hydrocodone 10/325mg

285 tablets of hydrocodone 5/325mg
233 tablets of phenterimine 37.5mg

Prior discipline: none

Recommendation: Revoke

Dr. Stephens made the motion to **authorize a formal hearing for revocation**. Dr. Smothers seconded the motion. The motion carried.

9. Case No.: L11-PHR-RBS-201100172

Complaint generated from inquiry by pharmacy as to the legality of the activities of another pharmacy. Respondent pharmacy sent correspondence to assisted living facility offering to send pharmacist to the facility to repackage patients' full prescriptions into single dose blister packs. There is no evidence that Respondent has repackaged as stated in the offer.

Prior discipline: none

Recommendation: Letter of Warning as to repackaging

Dr. Stephens made the motion to issue a **Letter of Warning** for repacking. Dr. Bunch seconded the motion. The motion carried.

10. Case No.: L11-PHR-RBS-201100166

Complaint alleged that respondent pharmacy is allowing technicians to administer flu shots to patients in the pharmacy. Investigation revealed that an LPN has been administering the immunizations for Respondent. Investigation further revealed that PIC has had sufficient training to administer vaccines and has a PBIP signed by a physician and the PIC, however said document does not call for the administration of the immunizations by an LPN.

*Prior discipline: 2005—tech ratio \$250 CP
201—Unprof. Conduct--dismissed*

Recommendation: Letter Of Instruction

Dr. Hill made the motion to issue a **Letter of Instruction** to the pharmacist in charge. Dr. Stephens seconded the motion. The motion carried.

11. Case No.: L11-PHR-201100169

Respondent technician admitted by affidavit to the removal of the following controlled substances from the pharmacy without authorization or valid prescription:

246 tablets of alprazolam 2 mg
981 tablets of hydrocodone 10/500mg
150 tablets of hydrocodone 10/325mg

Respondent states that he did not intend to steal from the pharmacy, he just wanted to pay his rent and bills.

Prior discipline: none

Recommendation: Revoke

Dr. Smothers made the motion to **authorize a formal hearing for revocation**. Dr. Kizer seconded the motion. The motion carried.

12. Case No.: L11-PHR-RBS-201100202

Respondent technician admitted to loss prevention, by signed affidavit, to removing controlled substances from the pharmacy without authorization or valid prescription. Controlled substances in question were:

125 tablets of alprazolam 1mg
430 tablets of alprazolam 2mg
1120 tablets of hydrocodone 10/500mg
40 tablets of hydrocodone 10/650mg
12 tablets of hydrocodone 7.5/650mg
68 tablets of hydrocodone 2.5/500mg
16 tablets of hydrocodone 7.5/750mg
619 tablets of oxycodone 5/325mg
4 tablets of oxycodone 7.5/500mg
2 tablets of oxycodone 10/650mg

Prior discipline: none

Recommendation: Revoke

Dr. Hill made the motion to **recommend a formal hearing for revocation**. Dr. Stephens seconded the motion. The motion carried.

13. Case No.: L11-PHR-RBS-201100168

Respondent technician admitted to loss prevention, by signed affidavit, to removing controlled substances from the pharmacy without authorization or valid prescription over the course of approximately 10 weeks. Controlled substances in question were:

1 tablet of hydrocodone 7.5/500mg
527 tablets of hydrocodone 10/500mg
226 tablets of hydrocodone 5/500mg

Prior discipline: none

Recommendation: Revoke

Dr. Stephens made the motion to **recommend a formal hearing for revocation**. Dr. Kizer seconded the motion. The motion carried.

14. Case No.: L10-PHR-RBS-201100163

Complaint alleged that respondent pharmacy has been filling prescriptions “for office use only”. Respondent admits to filling prescriptions for “office use only” for physicians office. Prescriptions included estradoil, Testosterone, b-complex, methylcobalamin, revalite energy. 723 prescriptions were dispensed “for office use only” from respondent pharmacy between 1/1/2009 and 10/26/2011. Respondent states that prescriptions were sent directly to doctors’ offices for administration directly to patients. Respondent maintains that no narcotics or stimulants were dispensed in this fashion. Respondent states that at the point at which Respondent was made aware that this was not allowed, they discontinued this practice and start informing practitioners of this as well.

Prior discipline: none

Recommendation: Letter Of Warning

Dr. Smothers made the motion to issue a **Letter of Warning** to the pharmacy. Dr. Stephens seconded the motion. The motion carried.

15. Case No.: L10-PHR-RBS-201100157

Complainant patient alleged that respondent pharmacist incorrectly dispensed patient’s prescription for Tazxicef and gave patient syringes that were the wrong size. Specifically, complainant states that prescription was dispensed with 81 viles rather than 28. Complainant states that patient uses one vial for three separate injections and therefore only 28 vials were necessary under the prescription. Respondent pharmacy initially partially filled the prescription due to supply in stock, and patient came back when remainder of prescription was filled and ready to be dispensed. Complainant states that

when patient came to pick up the remainder of the prescription, patient noticed an incorrect number of vials, and when patient confronted respondent regarding this, respondent stated that, per manufacturer, vials are for single use only, and that she was wrong. Complainant states that respondent was rude and had abused every one of the Patient Bill of Rights as a pharmacist. Complainant states that respondent refused to take back the unwanted vials or give her a refund for the unused portion of the prescription. Respondent states that a call was placed to the manufacturer prior to dispensing and verified that each vial is for a single use. Respondent states that an additional call was placed to the manufacturer when patient questioned respondent's assertion as to the per usage provisions pertaining to the vials, and same was confirmed. Respondent stated that patient left shortly thereafter, and agreed to hold the medication until the patient's caregiver could call the respondent. Respondent states that in the end, when patient's caregiver came in to pick up the remaining portion of the prescription, respondent dispensed the patient requested number of vials and issued a refund for the difference.

Prior discipline: none

Recommendation: Dismiss

Dr. Kizer made the motion to **accept counsel's recommendation**. Dr. Smothers seconded the motion. The motion carried.

16. Case No.: L11-PHR-RBS-201100152

Complainant alleged medication error. Complainant alleged that patient dropped off a prescription for Penicillin 500mg 40 tablets, and when prescription was picked up patient noticed a shortage of 20 tablets. Complainant states that patient called the respondent and was told to come back to pharmacy and respondent would give her the other 20 tablets. Complainant claims that respondent put the 20 remaining pills in the same pill bottle as the previously dispensed pills. Complainant states that when patient went to take the next dose, the pills looked different. Complainant states that Patient researched the web and determined that the Respondent has initially misfilled the prescriptions with sulfamethoxazole and Trimethoprim DS rather than penicillin. Complainant states that patient called and spoke to the respondent, but that respondent never called patient back. Respondent admits to taking the initial prescription bottle back and adding 20 additional tablets. Respondent states that all tablets were recounted to insure the correct number and that all tablets were penicillin 500mg. Respondent states that image was brought up on computer system at the time of counting to insure that all tablets were correct. Complainant does not have the actual pills in possession to substantiate the claim, and never physically presented them to the Respondent or ancillary staff.

Prior discipline:

<i>Pharmacy</i>	<i>2002—refuse to fill--dismissed</i>
	<i>2003—unprof. Conduct—dismissed</i>
	<i>2003—customer service—dismissed</i>
	<i>2004—unprof. conduct—dismissed.</i>

PIC-none

Recommendation: Dismiss

Dr. Bunch made the motion to **accept counsel's recommendation**. Dr. Smothers seconded the motion. The motion carried.

17. Case No.: L11-PHR-RBS-201100151

Complainant alleges that patient's prescription for Xanax was properly dropped off for filling at Respondent Pharmacy but was dispensed to someone other than patient or

designee. Complainant also states that since prescription was fraudulently picked up, that the prescription was fraudulently charged to patient's insurance by respondent, and complainant feels that patient's private information has been compromised. Respondent states that patient was called twice, once by respondent and a second time by respondent's district manager, and asked to meet with loss prevention to view the camera footage in an attempt to identify the woman who picked up the patient's prescription. Respondent states that patient never responded.

Prior discipline: none

Recommendation: dismiss

Dr. Stephens made the motion to **accept counsel's recommendation**. Dr. Smothers seconded the motion. The motion carried.

18. Case No.: L11-PHR-RBS-201100164

Complaint generated from CSMAC duties to identify unusual patterns of prescribing or dispensing of controlled substances through analysis of the controlled substance monitoring database. Respondent was found to be filling and dispensing prescriptions "for office use only" Database information. Investigation revealed that Respondent did fill and dispense the following "for office use": amoxicillin, clindamycin, arithromycin, desoximetasone cream, etc. for dentist office administered directly to patients prior to surgery and two prescriptions for alprazolam for one office for patients undergoing an MRI experiencing extreme anxiety Respondent states that at the point at which Respondent was made aware that this was not allowed, they discontinued this practice and informed the practitioners of this as well.

Prior discipline: none

Recommendation: LOW

Dr. Hill made the motion to issue a **Letter of Instruction** to the pharmacist in charge. Dr. Kizer seconded the motion. The motion carried.

19. Case No.: L11-PHR-RBS-201100062

Complaint alleged that when caregiver when to pick up prescriptions for patient, pharmacy technician charged and gave to caregiver an additional prescription for a different patient erroneously. Prescription erroneously given to the caregiver was diabetic insulin. The caregiver realized the error when caregiver returned home and called respondent as to the error. Respondent asked the caregiver to return the prescription to the pharmacy. Complainant states, and respondent affirms, that prescription was returned to the pharmacy and patient was credited for the error. Note: new prescription for insulin was filled and dispensed to the proper patient when it was discovered that the insulin prescription was missing. Additionally complainant alleges that pharmacist told caregiver that pharmacy could not fill patient's xanax prescription due to shortage of xanax at pharmacy, but to return in a few days. When caregiver returned a few days later, the same was told to the caregiver by the pharmacist. Complainant alleges that the caregiver later found out from the patient's physician that the prescription was cancelled by the pharmacist. Complainant states that pharmacist later told caregiver that pharmacy would no longer filled controlled substances for patient. Respondent admits error by the technician, and respondent indicates that said technician was disciplined. Respondent states that an apology was given to caregiver as to the dispensing error. Respondent indicates that when Respondent contacted physician regarding xanax prescription, and that the physician instructed Respondent to cancel the prescription. Respondent states that controlled substance prescriptions for patient were being prescribed by a physician out side of Tennessee. After consideration and discussion with Respondent's partner, Respondent did instruct the caregiver and patient that respondent would no longer fill prescriptions for controlled substances prescribed by the physician out of state. Respondent did tell caregiver/patient that Respondent would resume filling controlled substances for patient if patient established a relationship with a local physician. Respondent states that this was stated to caregiver/patient by respondent as well as partner pharmacist.

Prior discipline: 2011—misfill-\$250 cp

Recommendation: Discuss

Dr. Stephens made the motion to **dismiss** the complaint. Dr. Hill seconded the motion. The motion carried.

20. Case No.: L11-PHR-RBS-201100069

Complaint generated from periodic inspection. Inspection found that respondent PIC had been fired due to respondent being found on occasion asleep in her car and in her office while on duty. Respondent was observed on two separate occasions by corporate investigator to be sleeping in car while on duty after associate pharmacist reported respondent to being doing same in the past. Corporate investigator found Respondent asleep in her car from 2:17pm until 2:55pm on the first occasion and from 3:00pm until

3:59pm on the second occasion. Respondent admits to leaving the pharmacy to take break and left technician in charge while Respondent was gone. Respondent also states that she would leave to take smoke breaks. Respondent states that she did not want to close the pharmacy for the few minutes that she would be gone on these occasions.

*Prior discipline: 1997—failure to counsel--\$100 cp
2003—Unprof. Conduct--dismissed*

Recommendation: Discuss

Dr. Kizer made the motion to **recommend a formal hearing** with a civil penalty of \$200.00 to the pharmacist in charge for leaving the pharmacy under the responsibility of pharmacy technician. Dr. Stephens seconded the motion. The motion carried.

21. Case No.: L10-PHR-RBS-201100111 (2nd presentation)

Respondent self-reported current treatment for chemical dependency. Respondent offered to accept the **indefinite suspension of Respondent's** license.

Prior discipline: none

Recommendation: Accept Consent Order for indefinite suspension

Ms. McDaniel made the motion to **dismiss** the complaint. Dr. Kizer seconded the motion. The motion carried. An evaluation from Cornerstone stated that no treatment was necessary.

Rules

Mr. Czerniak informed the board that the rules pertaining to the requirement of criminal background checks for pharmacists and pharmacy technicians applying for licensure or registration in Tennessee have been sent to the Attorney General's office for review.

General Discussion

Mr. Czerniak discussed with the board the costs to be associated with providing information from the controlled substance monitoring database to law enforcement, to a judicial district task force and the Tennessee Bureau of Investigation (TBI), pursuant to T.C.A. 53-10-306(c). Mr. Czerniak stated that the calculated fee is \$1.87 per request to run the report if sending it by regular mail but does not include the cost for paper or CD Rom. The reports can be sent via secured email and there will be no fee assessed. Dr. Stephens stated that if you assess the fee per request it might generate more requests than anticipated. Dr. Stephens suggested a flat rate per use regardless of the use or how it would be delivered. Dr. Baeteena Black, President of Tennessee Pharmacy Association (TPA) informed the board that they would need to consider

operational costs as well as the per use fee. After further discussion, Dr. Smothers made the motion to recalculate the costs including operational cost and run another test period using different means of delivery. Ms. McDaniel seconded the motion. The motion carried.

Request to Appear

Mary Pendergrast, RT

Ms. Pendergrast answered yes to the question “Have you ever been convicted of a misdemeanor (except minor traffic offenses) including alcohol or drug related offenses (including marijuana or hallucinogens)? Ms. Pendergrast was convicted of DUI (3rd offense) on 10/02/2001 and DUI (4th offense) on 08/24/2004. Dr. Warren made the motion requesting that Ms. Pendergrast submit to a criminal background check and to appear before the board. Dr. Stephens seconded the motion. The motion carried. After discussion, Ms. McDaniel made the motion to approve Ms. Pendergrast’s application for registration as a pharmacy technician. Dr. Kizer seconded the motion. The motion carried.

Sandra Lyon, RT

Ms. Lyon answered yes to the question that ask “Have you been convicted of a misdemeanor (except minor traffic offenses) including alcohol or drug related offenses (including marijuana or hallucinogens)?” and “Are there any charges pending against you?” Ms. Lyon pled guilty to DUI first offense on 08/01/2007 in Mississippi. She was fined \$733.00. On 05/11/2007, Ms. Lyon was charged with careless driving and disorderly conduct- this case is listed as open/pending remanded to file on 07/16/2007. On 11/18/2008, Ms. Lyon was charged with petit larceny and simple assault. This case is listed as open/pending remanded to file on 04/24/2009. After discussion, Ms. McDaniel made the motion to approve Ms. Lyon’s application for registration as a pharmacy technician. Dr. Stephens seconded the motion. The motion carried. Dr. Hill voted no.

Reinstatements

Susan White, D.Ph.

Dr. White requested to have her license reinstated. Dr. White surrendered her pharmacist license on 9/23/1997. After discussion, Dr. Stephens made the motion to reinstate Dr. White’s pharmacist license contingent upon Dr. White being required to satisfy all past due continuing pharmaceutical education, successfully completing the NAPLEX and MPJE, paying all cumulative license renewal fees and any applicable penalties and completing a period of internship of three hundred and twenty (320) hours within one hundred and eighty (180) consecutive days. Ms. McDaniel seconded the motion. The motion carried

Kevin Lyles, Pharm. D.

Dr. Lyles requested to have his license reinstated. Dr. Lyles’s license was revoked on November 15, 2010. After discussion, Dr. Kizer made the motion to reinstate Dr. Lyles’s license on

probation for five year from January 11, 2012 through January 11, 2017 with the following conditions. Ms. McDaniel seconded the motion. The motion carried.

- (a) The Respondent shall completely abstain from the consumption of alcohol or any other drugs, except as specified in (b);
- (b) The Respondent shall be able to consume legend drugs or controlled substances prescribed by the Respondent's primary physician, Dr. Richard McDavid, except in the case of an emergency or upon proper referral from the Respondent's primary physician. The Respondent shall immediately notify the Board office in writing of the name of the Respondent's primary physician each time the Respondent changes primary physicians;
- (c) The Respondent shall not obtain or attempt to obtain any prescriptions in the Respondent's name for any legend drugs, controlled substances or devices containing same from the physician other than the Respondent's primary physician or from any other health care provider, such as a nurse practitioner, physician's assistant or psychiatrist;
- (d) The Respondent shall destroy any unused controlled substances prescribed under the provisions of subsection (b) no later than thirty (30) days following the completion of the prescribed course of treatment;
- (e) The Respondent shall report to the Board, in writing, the ingestion of any and all legend drugs or controlled substances (a copy of the prescription will satisfy the requirement);
- (f) The Respondent shall submit to random sampling of urine, blood or bodily tissues for the presence of drugs and alcohol, at the Respondent's own expense, by agents of the Board, such as the Tennessee Pharmacist Recovery Network for as long as the Respondent has an active license. In the event that the sampling indicates the presence of drugs for which the Respondent does not have a valid prescription or the sampling indicates the presence of alcohol, then formal disciplinary charges may be brought against the Respondent which could result in the revocation of the Respondent's remaining term of probation or the suspension or revocation of the Respondent's license to engage in the practice of pharmacy. Prior to such disciplinary charges being heard by the Board, the Respondent's license may be summarily suspended;
- (g) The Respondent shall comply with all terms and conditions of the extended aftercare contract he entered into with Tennessee Pharmacist Recovery Network (TPRN). Respondent shall return a copy of said contract with this Consent Order to the Board office;
- (h) The Respondent shall not serve as pharmacist-in-charge for a period of three (3) years from the retroactive start date of probation; however, after a period of two (2) years from the retroactive state date of probation, the Respondent may petition the Board for a modification of this Consent Order to remove the restrictions upon a show of good cause. The Respondent shall not work as a "floater" for a period of three (3) years from the retroactive stare date of probation, meaning that the Respondent shall not work at more than one (1) pharmacy location at the same time without the permission of the Board;

- (i) The Respondent shall provide written notice requesting an active license; satisfy all past due continuing pharmaceutical education and pay all cumulative license renewal fees and applicable penalties.

Jean L. Kolifrath, RT

Ms. Kolifrath requested to have her pharmacy technician registration reinstated. Ms. Kolifrath's registration was revoked November 3, 2008. After discussion, Ms. McDaniel made the motion to reinstate Ms. Kolifrath's pharmacy technician registration. Dr. Kizer seconded the motion. The motion carried.

Director's Report

Dr. Holt presented to the board the continuing education audit results from January 2011 to June 2011. There were a total of 102 licensees audited and only 2 were in non-compliance.

Dr. Holt asked the board for approval to attend the pharmacy updates. Ms. McDaniel made the motion to approve travel for the pharmacy updates for Dr. Holt and board members. Dr. Stephens seconded the motion. The motion carried.

Dr. Holt informed the board about Walgreen's Safe Transfer Program that will allow the transfer of prescriptions from Walgreens to another pharmacy. Dr. Holt stated that the board office has been receiving several calls pertaining to this program, and he has been telling pharmacies that they can use the program but to still call and verify. Dr. Holt also stated that the problem that he had with the form was that it did not have a section for the number of refills left on the prescription. Dr. Reginald Dilliard, pharmacist with Walgreens, stated that the access to the Safe Transfer Program can only be by the prescription number. Dr. Dilliard stated that Walgreens will get a full report of the prescriptions that have been transferred. Dr. Dilliard also stated that Walgreens has corrected the problem concerning the number of refills. Dr. Warren stated that the store name needs to be listed in the section concerning the prescription transfer. Dr. Dilliard stated that Walgreens can add that to the form. Mr. Czerniak stated that Walgreen's Safe Transfer form meets all the requirements set forth in board rule 1140-03-.03(7) (c) with corrections.

Dr. Warren inquired of the board about the NABP 108th Annual Meeting to be held on May 19-22, 2012 in Philadelphia, PA. Ms. McDaniel made the motion to send five (5) members. Dr. Stephens seconded the motion. Dr. Holt asked the board to name the members. Ms. McDaniel amended the motion to request travel for Dr. Bunch as the voting delegate, Dr. Warren, Dr. Holt, Dr. Stephens and Dr. Kizer be allowed to attend. The motion carried.

Dr. Holt asked the board for approval for the executive director and the investigators to attend the Tennessee Pharmacy Association (TPA) Midyear meeting. Ms. McDaniel made the motion to approve travel for the pharmacy investigators and the executive director to attend the TPA Midyear Meeting scheduled for February 27, 2012. Dr. Hill seconded the motion. The motion carried.

Dr. Holt asked the board for permission to travel to the NABP/AACP District III meeting scheduled for August 11-14, 2012 in Savannah, GA. The board deferred this request until the March meeting.

Order Modification

Stephen Goss, D.Ph.

Dr. Goss appeared before the board to ask the board to allow him to work as a pharmacist in charge. Dr. Goss's pharmacist license is on probation for five (5) years. After discussion, Dr. Stephens made a motion that Dr. Goss present this request after two (2) years from the date his license was put on probation. Dr. Hill seconded the motion. The motion carried.

Request to reinstate

Robert Russell Moon, R. Ph.

Dr. Moon requested to have her license reinstated. Dr. Moon's license was revoked on October 6, 2010. After discussion, Dr. Stephens made the motion to reinstate Dr. Moon's license on probation for five (5) years from January 11, 2012 through January 11, 2017 with the following conditions. Ms. McDaniel seconded the motion. The motion carried.

- (a) The Respondent shall completely abstain from the consumption of alcohol or any other drugs, except as specified in (b);
- (b) The Respondent shall be able to consume legend drugs or controlled substances prescribed by the Respondent's primary physician, Dr. Pardue, except in the case of an emergency or upon proper referral from the Respondent's primary physician. The Respondent shall immediately notify the Board office in writing of the name of the Respondent's primary physician each time the Respondent changes primary physicians;
- (c) The Respondent shall not obtain or attempt to obtain any prescriptions in the Respondent's name for any legend drugs, controlled substances or devices containing same from the physician other than the Respondent's primary physician or from any other health care provider, such as a nurse practitioner, physician's assistant or psychiatrist;
- (d) The Respondent shall destroy any unused controlled substances prescribed under the provisions of subsection (b) no later than thirty (30) days following the completion of the prescribed course of treatment;
- (e) The Respondent shall report to the Board, in writing, the ingestion of any and all legend drugs or controlled substances (a copy of the prescription will satisfy the requirement);
- (f) The Respondent shall submit to random sampling of urine, blood or bodily tissues for the presence of drugs and alcohol, at the Respondent's own expense, by agents of the Board, such as the Tennessee Pharmacist Recovery

- Network for as long as the Respondent has an active license. In the event that the sampling indicates the presence of drugs for which the Respondent does not have a valid prescription or the sampling indicates the presence of alcohol, then formal disciplinary charges may be brought against the Respondent which could result in the revocation of the Respondent's remaining term of probation or the suspension or revocation of the Respondent's license to engage in the practice of pharmacy. Prior to such disciplinary charges being heard by the Board, the Respondent's license may be summarily suspended;
- (g) The Respondent shall comply with all terms and conditions of the extended aftercare contract he entered into with Tennessee Pharmacist Recovery Network (TPRN). Respondent shall return a copy of said contract with this Consent Order to the Board office;
 - (h) The Respondent shall not serve as pharmacist-in-charge for a period of three (3) years from the retroactive start date of probation; however, after a period of two (2) years from the retroactive state date of probation, the Respondent may petition the Board for a modification of this Consent Order to remove the restrictions upon a show of good cause. The Respondent shall not work as a "floater" for a period of three (3) years from the retroactive stare date of probation, meaning that the Respondent shall not work at more than one (1) pharmacy location at the same time without the permission of the Board;
 - (i) The Respondent shall provide written notice requesting an active license; satisfy all past due continuing pharmaceutical education; successfully complete the Multi-State Pharmacy Jurisprudence Examination (MPJE); pay all cumulative license renewal fees and applicable penalties and complete a period of pharmacy internship in Tennessee from one (1) year to not more than three (3) consecutive years, one hundred sixty (160) hours within ninety (90) consecutive days.

Katherine Nola, Pharm. D.

Dr. Nola requested to have her license reinstated. Dr. Nola's license was revoked on August 8, 2011. After discussion, Ms. McDaniel made the motion to reinstate Dr. Nola's license on probation for five (5) years from January 11, 2012 through January 11, 2017 with the following conditions. Dr. Kizer seconded the motion. The motion carried.

- (a) The Respondent shall completely abstain from the consumption of alcohol or any other drugs, except as specified in (b);
- (b) The Respondent shall be able to consume legend drugs or controlled substances prescribed by the Respondent's primary physician, Dr. Bill Sekulovski, except in the case of an emergency or upon proper referral from the Respondent's primary physician. The Respondent shall immediately notify the Board office in writing of the name of the Respondent's primary physician each time the Respondent changes primary physicians;
- (c) The Respondent shall not obtain or attempt to obtain any prescriptions in the Respondent's name for any legend drugs, controlled substances or devices containing same from the physician other than the Respondent's

- primary physician or from any other health care provider, such as a nurse practitioner, physician's assistant or psychiatrist;
- (d) The Respondent shall destroy any unused controlled substances prescribed under the provisions of subsection (b) no later than thirty (30) days following the completion of the prescribed course of treatment;
 - (e) The Respondent shall report to the Board, in writing, the ingestion of any and all legend drugs or controlled substances (a copy of the prescription will satisfy the requirement);
 - (f) The Respondent shall submit to random sampling of urine, blood or bodily tissues for the presence of drugs and alcohol, at the Respondent's own expense, by agents of the Board, such as the Tennessee Pharmacist Recovery Network for as long as the Respondent has an active license. In the event that the sampling indicates the presence of drugs for which the Respondent does not have a valid prescription or the sampling indicates the presence of alcohol, then formal disciplinary charges may be brought against the Respondent which could result in the revocation of the Respondent's remaining term of probation or the suspension or revocation of the Respondent's license to engage in the practice of pharmacy. Prior to such disciplinary charges being heard by the Board, the Respondent's license may be summarily suspended;
 - (g) The Respondent shall comply with all terms and conditions of the extended aftercare contract he entered into with Tennessee Pharmacist Recovery Network (TPRN). Respondent shall return a copy of said contract with this Consent Order to the Board office;
 - (h) The Respondent shall not serve as pharmacist-in-charge for a period of three (3) years from the retroactive start date of probation; however, after a period of two (2) years from the retroactive state date of probation, the Respondent may petition the Board for a modification of this Consent Order to remove the restrictions upon a show of good cause. The Respondent shall not work as a "floater" for a period of three (3) years from the retroactive stare date of probation, meaning that the Respondent shall not work at more than one (1) pharmacy location at the same time without the permission of the Board;
 - (i) The Respondent shall provide written notice requesting an active license; satisfy all past due continuing pharmaceutical education and pay all cumulative license renewal fees and applicable penalties.

Dr. Hill made the motion to adjourn at 5:15 p.m. Dr. Smothers seconded the motion. The motion carried.

January 12, 2012

The Tennessee Board of Pharmacy reconvened on Thursday, January 12, 2012 in the Poplar Room, 227 French Landing, Nashville, TN. A quorum of the members were present, the meeting was called to order at 9:05 a.m., by Dr. Warren, president.

Request to Appear

Charles Dyer, R.Ph. Henry County Medical Center

Dr. Dyer is appearing before the board to request that permission to supply medication to the Kentucky Lake Surgery Center that will be operating under the Henry County Medical Center current pharmacy license. Henry County Medical Center will be purchasing Kentucky Lake Surgery Center sometime in January 2012. The board did not make a decision on this issue since the surgery center will be operation under Henry County Medical Center.

Samantha Hale, RT

Ms. Hale answered yes to the question “Have you ever been convicted of a misdemeanor (except minor traffic offenses) including alcohol or drug related offenses (including marijuana or hallucinogens)? and “Are there any charges pending against you?” Ms. Hale was issued a ticket for underage drinking on 06/03/2011. Dr. Warren seconded the motion. The motion carried. After discussion, Ms. McDaniel made the motion to approve Ms. Hale’s application for registration as a pharmacy technician. Dr. Stephens seconded the motion. The motion carried.

Order Modification

Jan Horn, R.Ph.

Dr. Horn is appeared before the board to ask if he is able to work as a pharmacist in charge. Dr. Horn’s pharmacist license is on probation for five (5) years. After discussion, Dr. Stephens made a motion to proceed with this request because of errors in Dr. Horn’s consent order. Ms. McDaniel seconded the motion. The motion carried. After discussion, Dr. Kizer made the motion to grant the request. Ms. McDaniel seconded the motion. The motion carried.

General Discussion

During the previous discussion with Dr. Horn, it has been discovered that the signatures on the consent order by the licensee and the board’s president maybe have been on different dates which may cause confusion as to when the licensee can petition the board for an order modification. The consent order for reinstatement states that “The Respondent shall not serve as pharmacist in charge for a period of three (3) years; however, after a period of two (2) years, the Respondent may petition the Board for a modification of this Consent Order to remove the restrictions upon a show of good cause. The Respondent shall not work as a “floater” for a period of three (3) years, meaning that the Respondent shall not work at more than one (1) pharmacy location at the same time without the permission of the Board;”. The board was under the impression that once a licensee petitions the board for reinstatement, the suspension and/or revocation would be lifted and probation would start on that date. Ms. Mc Daniel stated that she assumed that the twenty-four months began the day that the reinstatement was granted. Dr. Stephens stated that the consent order should not be effective until the licensee signs the consent

order and not when the president signs the order. Mr. Czerniak informed the board that even when they grant reinstatement, the probation doesn't start until all the requirements listed in the consent order for reinstatement has been met. Mr. Czerniak stated that the board need to ponder on the reason for the two year wait for becoming or asking to be pharmacist in charge or is it for safety reasons. Dr. Bunch asked why the consent order can't be signed on the date of reinstatement. Mr. Czerniak informed the board that a licensee cannot be on suspension and probation at the same time. After discussion, Dr. Warren asked Mr. Czerniak to research the matter and to bring the information to the board at the next scheduled meeting.

Request to Reinstate

Phillip Moss, Pharm. D.

Dr. Moss requested to have her license reinstated. Dr. Moss's license was revoked on August 8, 2011. After discussion, Ms. McDaniel made the motion to reinstate Dr. Moss's license. Dr. Kizer seconded the motion. The motion failed. Ms. McDaniel withdrew the motion. Ms. McDaniel made the motion to defer reinstating Dr. Moss's pharmacist license until he can submit a statement from his psychiatrist stating that he is not a danger unto himself and is able to work as a pharmacist. Dr. Stephens seconded the motion. The motion carried.

Legislation

Mr. Czerniak presented House Bill 2391 and Senate Bill 2253 which are considered the "Tennessee Prescription Act of 2012" to the board. Dr. Stephens asked that if this bill requires hospitals and institutional pharmacies to submit to the controlled substance monitoring database and check the database before issuing controlled substances, because the patient would suffer and it is unnecessary. Dr. Stephens stated that the database will become bombarded with hundreds or thousand of entries that will be important because the patients in the hospital are being administered the drugs by professionals and he does not think that this bill will fight the crimes or prescription drug problem. He can see the benefit in the emergency room but not an inpatient in a hospital or nursing home. Dr. Holt stated that pharmacy is listed as a health care practitioner but pharmacists are not listed. Dr. Baeteena Black stated that Tennessee Pharmacy Association is very supportive of the Governor's intention to do what they can to further address the problem with drug abuse in Tennessee. Dr. Black stated that they do have concerns with some of the provisions in this bill and that this law has been on the books for several years. Dr. Black stated that she hasn't been to a meeting yet with the legislators or the Commissioner Dreyzehner to discuss the bill. After discussion, the board agreed with the intent of the bill but had concerns in the detail with patient care, pharmacist and the board of pharmacy with administrative and financial costs and the frequency of reporting.

Dr. Hill and Dr. Bunch left at 12:30 p.m.

**Application Review
Pharmacist**

Jonathan Box

Dr. Box answered yes to the question that asked “Has your pharmacist license in any jurisdiction ever been revoked, suspended, restricted, terminated, or otherwise been subject to disciplinary action (public or private) by any board of pharmacy or other state authority?” Dr. Box was disciplined by the Nevada Board of Pharmacy for a misfill in July 2002. His Nevada pharmacist license is active and in good standing. Dr. Stephens made the motion to approve Dr. Box’s application for reciprocity. Ms. McDaniel seconded the motion. The motion carried.

Shari Salzman-O’Connor

Dr. Salzman-O’Connor answered yes to the question that asked “Has your pharmacist license in any jurisdiction ever been revoked, suspended, restricted, terminated, or otherwise been subject to disciplinary action (public or private) by any board of pharmacy or other state authority?” Dr. Salzman-O’Connor was disciplined by the New Jersey Board of Pharmacy on February 21, 2006 for error in prescribing, dispensing or administering medication. Dr. Salzman-O’Connor’s New Jersey pharmacist license is active and in good standing. Dr. Kizer made the motion to approve Dr. Salzman-O’Connor’s application for reciprocity. Dr. Stephens seconded the motion. The motion carried.

John Dale Milam

Dr. Milam answered no to the question that asked “Has your pharmacist license in any jurisdiction ever been revoked, suspended, restricted, terminated, or otherwise been subject to disciplinary action (public or private) by any board of pharmacy or other state authority?” Dr. Milam was disciplined by the Kentucky Board of Pharmacy on September 9, 2000 for failure to comply with continuing education or competency requirements and July 9, 2003 for practicing without a valid license. Dr. Milam’s Kentucky pharmacist license is active and in good standing. Dr. Smothers made the motion to approve Dr. Milam’s application for reciprocity. Dr. Kizer seconded the motion. The motion carried.

Pharmacy Technicians

Kiara McCarroll

Ms. McCarroll answered yes to the question that asked “Are there any charges pending against you? Drug Charges? And Charges of any kind in another state? Ms. McCarroll pled not guilty on 05/25/2011 for possession of marijuana 2nd in Homewood, AL. Case is still open. Ms. McDaniel made the motion to deny Ms. McCarroll’s application for registration as a pharmacy technician. Dr. Stephens seconded the motion. The motion carried.

Richard Howden

Mr. Howden answered yes to the question that asked “Have you ever been convicted of a misdemeanor (except minor traffic offenses) including alcohol or drug related offenses (including marijuana or hallucinogens)? Mr. Howden was arrested for underage drinking on 05/22/2011. The charge was dismissed on 07/28/2011. Ms. McDaniel made the motion to approve Mr. Howden’s application for registration as a pharmacy technician. Dr. Stephens seconded the motion. The motion carried.

Tonya Smith

Ms. Smith answered yes to the question that asked “Have you ever been convicted of a misdemeanor (except minor traffic offenses) including alcohol or drug related offenses (including marijuana or hallucinogens)? Ms. Smith pled guilty to DUI 1st on 05/16/2008. Dr. Stephens made the motion to approve Ms. Smith’s application for registration as a pharmacy technician. Ms. McDaniel seconded the motion. The motion carried.

Nile Jolly

Mr. Jolly answered yes to the question that asked “Have you ever been convicted of a misdemeanor (except minor traffic offenses) including alcohol or drug related offenses (including marijuana or hallucinogens)? Mr. Jolly was charged with possession of marijuana and the charges were dismissed on 12/02/2005. Ms. McDaniel made the motion to approve Mr. Jolly’s application for registration as a pharmacy technician. Dr. Stephens seconded the motion. The motion carried.

Marqueta Tyler

Ms. Tyler answered yes to the question that asked “Have you ever been convicted of a misdemeanor (except minor traffic offenses) including alcohol or drug related offenses (including marijuana or hallucinogens)? Ms. Tyler was charged with theft of property \$500.00 or less and received pre-trial diversion on 06/08/2007. Ms. McDaniel made the motion to approve Ms. Tyler’s application for registration as a pharmacy technician. Dr. Stephens seconded the motion. The motion carried.

Demetrius Butts

Mr. Butts answered yes to the question that asked “Have you been convicted of a felony?” Mr. Butts was issued a traffic ticket for possession/consumption of alcohol in a park on 11/21/2009. Ms. McDaniel made the motion to approve Ms. Butt’s application for registration as a pharmacy technician. Dr. Kizer seconded the motion. The motion carried.

Rebecca Shaddy

Ms. Shaddy answered yes to the question that asked “Have you ever been convicted of a misdemeanor (except minor traffic offenses) including alcohol or drug related offenses (including marijuana or hallucinogens)? Ms. Shaddy entered a conditional plea for underage consumption of alcohol on 11/15/2011 for charges dated 04/20/2011 and 08/20/2011. Ms. Shaddy received 11 months and 29 days of supervised probation and thirty hours of community service. Ms. McDaniel made the motion to approve Ms. Shaddy’s application for registration as a pharmacy technician. Dr. Kizer seconded the motion. The motion carried.

Kimberly Taylor

Ms. Taylor answered yes to the question that asked “Have you ever been convicted of a misdemeanor (except minor traffic offenses) including alcohol or drug related offenses (including marijuana or hallucinogens)? Ms. Taylor was arrested for theft under \$500.00 on 09/07/2007. On June 23, 2011, Ms. Taylor was found guilty of harassment. Ms. McDaniel made the motion to approve Ms. Taylor’s application for registration as a pharmacy technician. Dr. Stephens seconded the motion. The motion carried.

Otis Nunn

Mr. Nunn answered yes to the question that asked “Have you been convicted of a felony?” and “Are there any charges pending against you?” Mr. Nunn pled guilty to DUI 1st on 04/13/2011. Ms. McDaniel made the motion to approve Mr. Nunn’s application for registration as a pharmacy technician. Dr. Kizer seconded the motion. The motion carried.

Terrance Shaw

Mr. Shaw answered yes to the question that asked “Have you ever been convicted of a misdemeanor (except minor traffic offenses) including alcohol or drug related offenses (including marijuana or hallucinogens)? Mr. Shaw submitted the original application on March 8, 2011. He resubmitted another application on August 18, 2011 and answered no to the above question. Mr. Shaw was charged with simple possession/casual exchange-marijuana on 12/06/2006. Ms. McDaniel made the motion to approve Mr. Shaw’s application for registration as a pharmacy technician. Dr. Kizer seconded the motion. The motion carried.

Chiquita Brown

Ms. Brown answered yes to the question that asked “Have you ever been convicted of a misdemeanor (except minor traffic offenses) including alcohol or drug related offenses (including marijuana or hallucinogens)? Ms. Brown arrested on May 27, 2008 for theft of property \$500.00 or less and on June 23, 2010 she was found guilty and sentenced to one day in jail. On December 26, 2009, Ms. Brown was arrested for theft of property \$500.00 or less and on June 4, 2010 she was found guilty and fined \$200.00 which she states that she has paid.

Ms. McDaniel made the motion to defer Ms. Brown's application for registration as a pharmacy technician pending receipt of additional information or Ms. Brown's appearance before the board. Dr. Stephens seconded the motion. The motion carried.

Jeffrey Berry

Mr. Berry answered yes to the question that asked "Have you ever been convicted of a misdemeanor (except minor traffic offenses) including alcohol or drug related offenses (including marijuana or hallucinogens)? and "Have you been convicted of a felony?"

Mr. Berry states that he was charged with driving while under the influence of a controlled substance and disorderly conduct. He was also charged and convicted of a felony for receiving stolen property. Mr. Berry states that both charges were about 20 to 25 years ago. Mr. Berry also stated that there may be other charges since it has been several years and he hasn't thought about the past in a while. Ms. McDaniel made the motion to approve Mr. Berry's application for registration as a pharmacy technician. Dr. Stephens seconded the motion. The motion carried.

Sue Threat

Ms. Threat answered yes to the question that asked "Have you ever been convicted of a misdemeanor (except minor traffic offenses) including alcohol or drug related offenses (including marijuana or hallucinogens)? Ms. Threat was charged with unlawful neglect of a child on 02/21/2008. She completed pre-trial intervention on 03/18/2009. Ms. McDaniel made the motion to approve Ms. Threat's application for registration as a pharmacy technician. Dr. Stephens seconded the motion. The motion carried.

Jonathan Potts

Mr. Potts answered yes to the question that asked "Have you ever been convicted of a misdemeanor (except minor traffic offenses) including alcohol or drug related offenses (including marijuana or hallucinogens)? Mr. Potts was found guilty of reckless driving on 10/25/2011. Ms. McDaniel made the motion to approve Mr. Pott's application for registration as a pharmacy technician. Dr. Stephens seconded the motion. The motion carried.

Anita L. Sartino

Ms. Sartino answered yes to the question that asked "Have you ever been convicted of a misdemeanor (except minor traffic offenses) including alcohol or drug related offenses (including marijuana or hallucinogens)? Ms. Sartino pled guilty to criminal trespassing on

06/26/2009. She was sentenced to 2 days in jail and a \$289.00. The fine has been paid in full. Ms. McDaniel made the motion to approve Ms. Sartino's application for registration as a pharmacy technician. Dr. Stephens seconded the motion. The motion carried.

Eugene Grayer

Mr. Grayer answered yes to the question that asked “Have you ever been convicted of a misdemeanor (except minor traffic offenses) including alcohol or drug related offenses (including marijuana or hallucinogens)? Mr. Grayer has been charged with DUI 2nd Offense and scheduled to appear in court on 01/23/2012. He has also been charged with possession or casual exchange and unlawful use of drug paraphernalia and scheduled to appear in court on 02/10/2012. Mr. Grayer states that he has finished a 30 day program for drug and alcohol treatment. Dr. Stephens made the motion to deny Mr. Grayer’s application for registration as a pharmacy technician. Dr. Smothers seconded the motion. The motion carried.

Pharmacy

Pet Meds N More, Inc.

Pet Meds N More, Inc is applying for license as an out of state pharmacy. They have an active California and Texas pharmacy license. Pet Meds N More, Inc. was disciplined by the Texas BoP for dispensing prescriptions prior to obtaining a Texas pharmacy license on June 7, 2011 and they were required to pay a fine. The California BoP issued a \$2500.00 fine to each Pet Meds and their PIC’s as a result of the Texas discipline. Ms. McDaniel made the motion to approve Pet Meds N More, Inc. application for licensure as an out of state pharmacy. Dr. Kizer seconded the motion. The motion carried.

Financial Report

Ms. Miller presented the financial report for the fiscal year of 2011 to the board. For FY2011 the board had revenues of 1.9 million and expenses of 1.3 million board and a current year net of \$553,901.01

Waivers

Board rule 1140-01-.04(1)

The board does not have the authority to waive the request submitted by **Dr. Retez Nebrea-Balmores**.

Board rule 1140-01-07(3)

Dr. Smothers made the motion to deny the request from **Ronald E. Harvill, R. Ph.**, to waive the MPJE. Dr. Kizer seconded the motion. The motion carried.

Dr. Stephens made the motion to approve the request form **Steven D. Ditter, R.Ph.**, to waive the internship hours but he must successfully take and pass the MPJE. Dr. Kizer seconded the motion. The motion carried.

Board rule 1140-02-.02(7)

Ms. McDaniel made the motion to defer the request from **Brandi Allen, D.Ph., Omnicare of Nashville** to increase the technician to pharmacist ratio until she can submit additional information. Dr. Kizer seconded the motion. The motion carried.

Dr. Stephens made the motion to defer the request from **Christy R. Newbaker, Pharm. D., Main Street Family Pharmacy** to increase the technician to pharmacist ratio until she can submit additional information. Dr. Smothers seconded the motion. The motion carried.

Board rule 1140-4-.15

The board did not take any action on the waiver request from **Terry Cost, D.Ph., Network HealthCare** because the automated inventory system can be used as an emergency kit as long as they do not stock controlled substances.

Board rule 1140-3-14(12) and 1140-1-.12 (3)

Dr. Smother made the motion to approve the waiver request **Rodney A. McCormick, Pharm. D.** to be the pharmacist in charge at P & P Compounding Shop, Inc. and Paragon Hemophilia Solutions, Inc. Dr. Kizer seconded the motion. The motion carried. Dr. Smothers made the motion to waive the requirement for the pharmacy to be one hundred and eighty (180) square feet at Paragon Hemophilia Solutions, Inc. Dr. Kizer seconded the motion. The motion carried.

Consent Orders

Ms. McDaniel made the motion to accept the following consent orders. Dr. Kizer seconded the motion. The motion carried.

VIOLATED BOARD RULE 1140-3-01 (1)(a) AND (f)

Rite Aid Pharmacy #11869-\$1000.00 civil penalty-paid
Benjamin C. Pegram, D.Ph.-\$1000.00 civil penalty-paid
Fred's Pharmacy #1861-\$1000.00 civil penalty-paid
Tennessee CVS Pharmacy #7793-\$1000.00 civil penalty

Ms. McDaniel made the motion to accept the following consent orders. Dr. Kizer seconded the motion. The motion carried.

INDEFINITE SUSPENSION

Christopher Lee Pittman, D.Ph.
Collis Campbell, D.Ph.
Michael Lee Griffith, D.Ph.
Robert David McNeese, D.Ph.

Ms. McDaniel made the motion to accept the following consent orders. Dr. Smothers seconded the motion. The motion carried.

REVOCATION

Kim C. McAlexander, RT
Tyler Herburger, RT
Pamela K. Morris, RT
Colby Clark, RT
Danielle Grace McDaniel, RT

Ms. McDaniel made the motion to accept the following consent orders. Dr. Kizer seconded the motion. The motion carried.

VIOLATED BOARD RULE 1140-2-.02(1)

Robin Paul Lester, RT-\$100.00 civil penalty-paid.

Director's Report

Ms. Miller gave the board a copy of the agenda from the December 15, 2011 controlled substance monitoring database meeting and the report to the General Assembly for their information. The information listed in the report is only through November 2011. It will be updated to include information from December 2011 before the February 1, 2012 deadline.

Dr. Holt presented to the board the complaint report. There are a total of 102 open cases for pharmacists, 103 open cases for pharmacies, 53 cases for pharmacy technicians and 1 case for manufacturer/wholesaler/distributor. There are a total of 71 licensees being monitored.

Dr. Holt presented to the board questions concerning companies acting as a broker of medications. Matchrx arranges the shipping of medications from one pharmacy to other. Dr. Holt stated that the question is if Matchrx need to be licensed as a manufacturer/wholesaler/distributor. Dr. Kizer stated that he has used Matchrx and that they have certain requirements that must be met before you can become a member. Dr. Warren stated that Matchrx does allow the sale of open containers of medications. Dr. Warren stated that this is a concern to her and that a pharmacist doesn't know the credentials of the other pharmacy.

Mr. Czerniak asked if Matchrx acts as a broker and does not handle the medications. Dr. Kizer stated that the medication is shipped from pharmacy to pharmacy. Dr. Kizer stated that Matchrx does help a pharmacy move drugs before the expiration. Dr. Warren asked if you could ship a partial vial. Dr. Holt asked Dr. Kizer how do you know what pharmacy bought the drug? Dr. Kizer stated that you don't know who purchased the medication until you receive the shipping label through email. Dr. Holt asked if the medication were shipped out of state, are you required to have an out-of- state license. Dr. Holt stated that there may need a mechanism in place to block sales to out-of-state pharmacies. Dr. Warren stated that she did look at Matchrx's website

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and that they do not move controlled substances. Dr. Warren asked if the board was concerned about Matchrx coordinating shipping medications from an out of state pharmacy into Tennessee. Dr. Kizer stated that he will inquire with Matchrx concerning if they have a mechanism in place not to ship from state to state.

Dr. Holt presented a question from Summit Central Fill Pharmacy. Summit Central Fill Pharmacy does mail order supporting the worker's compensation market. A nursing home operator is inquiring whether Summit can supply the TPN's to some of their patients. Summit states that they cannot fulfill the order but would like to subcontract this out to a specialty pharmacy and are wondering if they would need a manufacturer/wholesaler/distributor license. Dr. Holt stated that he is getting a lot of questions concerning this matter and that it is something to consider. Dr. Warren stated that the board would need more information.

Dr. Holt presented the board meeting dates for the 2013 calendar year. The dates are January 22-23, 2013, March 21-22, 2013, May 14-15, 2013, July 9-10, 2013, September 10-11, 2013 and November 13-14, 2013. The board changed the March 21-22, 2012 board meeting date to March 6-7, 2012.

Dr. Smothers made the motion to adjourn at 2:55 p.m. Dr. Kizer seconded the motion. The motion carried.

The minutes were ratified as amended at the March 6, 2012 board meeting.